

# **EXHIBIT 54**

## **MAO DECLARATION OPPOSITION TO SUMMARY JUDGMENT**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ANIBAL RODRIGUEZ, JULIEANNA  
MUNIZ, ELIZA CAMBA, SAL CATALDO,  
EMIR GOENAGA, JULIAN SANTIAGO,  
HAROLD NYANJOM, KELLIE NYANJOM,  
AND SUSAN LYNN HARVEY,  
INDIVIDUALLY AND ON BEHALF OF ALL  
OTHERS SIMILARLY SITUATED,

PLAINTIFFS,

vs.

NO. 3:20-CV-04688

GOOGLE LLC,

DEFENDANT.

\_\_\_\_\_ /

VIDEOTAPED DEPOSITION OF SUSAN HARVEY

\*VIA REMOTE COUNSEL VIDEOCONFERENCE\*

THURSDAY, OCTOBER 27, 2022

VOLUME I

STENOGRAPHICALLY REPORTED BY:

MEGAN F. ALVAREZ, RPR, CSR No. 12470

JOB NO. 5516967

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1 MR. LEE: I know that you know what he's 10:57:22  
2 asking. 10:57:24  
3 THE WITNESS: Yeah. Sorry. I apologize. 10:57:24  
4 MR. LEE: And then give it a pause and 10:57:26  
5 then you can answer. Okay? 10:57:27  
6 THE WITNESS: Go ahead. 10:57:27  
7 MR. LEE: Slow down. 10:57:28  
8 BY MR. MATEEN: 10:57:29  
9 Q. No worries. I also am a quick talker and 10:57:30  
10 jump in. So I know it's -- I'm just as guilty of 10:57:33  
11 the same thing. 10:57:37  
12 So I think we resolved that issue. You 10:57:42  
13 don't know how many attorneys you consulted with. 10:57:46  
14 Have you had any consultations with any 10:57:50  
15 lawyers about Google for any issues other than the 10:57:52  
16 unauthorized transactions and other than your 10:57:56  
17 consultations with Boies Schiller? 10:57:58  
18 A. No, not that I recall. I would have -- 10:58:00  
19 no. 10:58:07  
20 Q. Have you ever considered suing Google for 10:58:21  
21 any other reason besides the two reasons that you 10:58:24  
22 sued Google for? 10:58:28  
23 A. No, not that I can recall. There wouldn't 10:58:29  
24 be another reason. 10:58:32  
25 Q. So can you tell me in your own words why 10:58:37

1	you're suing Google in this lawsuit?	10:58:39
2	A. Yes. Because they offered me an option to	10:58:41
3	not collect my data or to be in control of my data,	10:58:45
4	and they didn't honor that.	10:58:47
5	Q. What should Google have done instead?	10:59:20
6	A. In regards to?	10:59:23
7	Q. I just asked why you're suing Google. You	10:59:28
8	said that Google did not honor the option that you	10:59:30
9	selected.	10:59:38
10	A. Yes.	10:59:40
11	Q. What would you have preferred Google have	10:59:41
12	done?	10:59:43
13	A. To not actually take, use, and -- take,	10:59:44
14	use, and save my information. It said that I was in	10:59:48
15	control. That doesn't put me in control.	10:59:53
16	Q. So can you tell me in your own words what	10:59:55
17	you mean when you say that Google took, used, and	10:59:58
18	saved your information?	11:00:01
19	A. In my own words? Well, I -- I just go by	11:00:04
20	what Google told me, which is that if you have	11:00:08
21	Web & App Activity on, that they can -- Google apps,	11:00:13
22	that it collects the information for Google apps,	11:00:18
23	sites, devices, from the search in YouTube and	11:00:20
24	Google home from platforms like Google browser and	11:00:24
25	Android operating system, products that integrate	11:00:27

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1 into third-party apps and sites like ads and beta 11:00:31  
2 Google Maps. 11:00:38  
3 Q. So, Ms. Harvey, just to be clear -- 11:00:39  
4 MR. LEE: Excuse me. I don't think she 11:00:40  
5 was done. She's -- I think she was still continuing 11:00:41  
6 on with her answer, Mr. Mateen. 11:00:44  
7 MR. MATEEN: Okay. 11:00:47  
8 THE WITNESS: Across your services, you 11:00:47  
9 can adjust your privacy settings to control what we 11:00:48  
10 collect and how we -- your information is used. 11:00:52  
11 MR. LEE: For the record, she's reading 11:00:56  
12 from the privacy policy. 11:00:57  
13 BY MR. MATEEN: 11:00:59  
14 Q. Okay. That's what I was asking. 11:01:00  
15 So that's what Google told you and what 11:01:09  
16 you believed was happening originally before you 11:01:15  
17 found out about -- strike that, actually. 11:01:18  
18 You allege that Google is not abiding by 11:01:28  
19 this privacy policy, right? 11:01:40  
20 A. Yes, I do. 11:01:42  
21 Q. How? 11:01:44  
22 A. Excuse me? 11:01:48  
23 Q. How is it not abiding by this privacy 11:01:49  
24 policy? 11:01:51  
25 A. It is not doing what it says it's supposed 11:01:52

1 to do. The button doesn't work. The information is 11:01:54  
2 still collected. 11:01:56  
3 Q. How is it collected? 11:01:59  
4 A. I don't know how that's done. That's not 11:02:02  
5 for me to decide. I just know it's not supposed to 11:02:04  
6 happen. 11:02:07  
7 Q. And what information is collected? 11:02:10  
8 A. Everything: Your device IDs, your geo 11:02:13  
9 location, your location, IP addresses, anything that 11:02:17  
10 you're doing on sites, apps, whatever. It's all 11:02:21  
11 being collected. And the way I read it, I was in 11:02:24  
12 control. I am not in control. 11:02:27  
13 Q. Just to clarify your answer, I am asking 11:02:30  
14 whether Google collects -- strike that. 11:02:41  
15 To clarify your answer, I am asking what 11:02:44  
16 information Google is collecting when you believe 11:02:50  
17 that Google is not collecting that information. 11:02:55  
18 Does that make sense? 11:02:59  
19 A. Everything. 11:03:01  
20 MR. LEE: When you mean WAA is off? 11:03:01  
21 MR. MATEEN: Yes. 11:03:04  
22 THE WITNESS: Off? Yes. Because as I 11:03:04  
23 read the way this sits, it says that -- 11:03:06  
24 MR. LEE: For the record, she's reading 11:03:09  
25 from the WAA disclosure. 11:03:10

1 THE WITNESS: I -- I go to privacy 11:03:12  
2 control, take activity controls. I look at the 11:03:14  
3 activity controls, and it says your searches. 11:03:16  
4 MR. LEE: Nice and slow for the court 11:03:18  
5 reporter. 11:03:19  
6 THE WITNESS: Okay. When 11:03:20  
7 Web & App Activity is on, Google saves information 11:03:22  
8 like searches and other things you do across Google 11:03:24  
9 products and services. Like Maps and Play, your 11:03:27  
10 location language, IP addresses, refers, and whether 11:03:31  
11 you use browser or an app, ads you click on, things 11:03:34  
12 you buy or other advertisements and sites. 11:03:38  
13 Information on your devices like recent apps or 11:03:41  
14 contact names you search for. 11:03:47  
15 When Web & App Activity is on, you can 11:03:50  
16 include additional activity, sites, and apps that 11:03:53  
17 partner with Google to show Web ads, sites and apps 11:03:56  
18 that use Google services, including free services, 11:04:00  
19 including data that app share with Google, your 11:04:15  
20 Chrome browsing history. And to let Google save 11:04:19  
21 that information, I'm supposed to have turned it on. 11:04:23  
22 And I turned it off so that couldn't be done. 11:04:26  
23 BY MR. MATEEN: 11:04:31  
24 Q. And did Google save that information after 11:04:37  
25 you turned it off? 11:04:40

1	A.	I turned it off years ago. Yes.	11:04:42
2	Q.	And what did Google do with that	11:04:48
3		information?	11:04:50
4	A.	They used it for their own benefit.	11:04:51
5	Q.	How did they use it for their own benefit?	11:04:54
6	A.	I can't speculate what was it actually	11:04:57
7		used for. That's not for me to decide.	11:04:59
8	Q.	How do you know it was used at all?	11:05:19
9	A.	After speaking with my attorney.	11:05:21
10	MR. LEE:	Okay. So that's good. You can	11:05:23
11		say that, but I don't want you to get into the	11:05:25
12		substance of any discussions you've had with your	11:05:27
13		attorney.	11:05:28
14	THE WITNESS:	Yeah, after speaking with my	11:05:30
15		attorney.	11:05:31
16	BY MR. MATEEN:		11:05:33
17	Q.	Outside of any discussion you've had with	11:05:43
18		your attorneys, do you have any reason to believe	11:05:44
19		that Google has used your information collected when	11:05:46
20		the Web & App Activity toggle was off?	11:05:52
21	A.	I think that would be a question for	11:05:55
22		Google, wouldn't it?	11:05:57
23	MR. MATEEN:	I just want to be clear. Are	11:06:26
24		you not going to permit her to testify as to the	11:06:28
25		basis of her knowledge of what Google did in this	11:06:31

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1 action because it's privileged? 11:06:37

2 MR. LEE: No idea what you're saying. 11:06:42

3 MR. MATEEN: I guess as far as the basis 11:06:44

4 of her knowledge that underlies this lawsuit is 11:06:46

5 privileged, the facts that led up to this lawsuit. 11:06:51

6 The basis of her knowledge, are you saying that's 11:06:54

7 privileged? 11:07:00

8 MR. LEE: Well, she testified that the way 11:07:01

9 she knows that Google is saving and using data 11:07:04

10 collected when WAA is off, she learned from 11:07:12

11 discussions with her lawyers. So she told you that 11:07:15

12 already. And I told her that's fine, "But do not 11:07:19

13 discuss the substance of any discussions you've had 11:07:23

14 with your attorneys." 11:07:27

15 MR. MATEEN: Okay. That's fair enough. 11:07:28

16 MR. LEE: So that's, I think, where -- 11:07:30

17 where we left it. 11:07:32

18 MR. MATEEN: Yeah, that's fine. Just 11:07:34

19 wanted to be clear. 11:07:35

20 MR. LEE: Okay. 11:07:38

21 MR. MATEEN: We've been going on for 11:08:11

22 nearly an hour. Would this be a good time for a 11:08:14

23 break? 11:08:20

24 MR. LEE: Sure. 11:08:20

25 THE VIDEO OPERATOR: Going off the record. 11:08:21

1 times today. I don't think it's happened at all. 05:03:53

2 And there have been time where she said "Excuse me?" 05:03:55

3 and there was some pause and you have rephrased. 05:03:58

4 And other times she's tried her best to answer and 05:04:00

5 has answered. 05:04:04

6 So I don't -- I don't think you can make 05:04:05

7 that blanket statement. I think the record will 05:04:06

8 bear that out. 05:04:09

9 BY MR. MATEEN: 05:04:33

10 Q. Ms. Harvey, you believe that Google has 05:04:34

11 collected information about you when you've had WAA 05:04:35

12 off, right? 05:04:38

13 A. Yes, I do. 05:04:39

14 Q. Do you believe that Google has shared that 05:04:45

15 information with other parties? 05:04:49

16 A. That's what we're trying to find out. 05:04:52

17 Q. To clarify, are you stating that this 05:04:59

18 lawsuit is about Google sharing information 05:05:02

19 collected when WAA is turned off with other parties? 05:05:05

20 A. Yes, that's -- that's my main thing. I 05:05:10

21 shut the thing off and information was collected. 05:05:12

22 It shouldn't have been collected in the first place. 05:05:15

23 Because it says I'm in control. With what they did, 05:05:17

24 I'm not in control. I don't know what's going on. 05:05:20

25 Q. Do you have any basis to claim that Google 05:05:26

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1 has shared information collected when WAA is turned 05:05:30  
2 off with third parties? 05:05:34  
3 A. Why should it be collected in the first 05:05:36  
4 place? If it's collected, yeah, I want to know. 05:05:39  
5 Why would they collect it if they weren't doing 05:05:43  
6 something with it? 05:05:48  
7 Q. Ms. Harvey, do you have any basis for 05:05:52  
8 stating that the information has been shared with 05:05:54  
9 third parties? 05:05:57  
10 A. That's what I'm trying to find out. I 05:05:58  
11 know it was collected, and it wasn't supposed to be 05:06:00  
12 collected in the first place. 05:06:03  
13 Q. Have you found out any basis thus so far? 05:06:08  
14 A. That's not for me to speculate on. 05:06:11  
15 MR. MATEEN: Okay. We're good on this 05:06:40  
16 document. 05:06:42  
17 THE WITNESS: I lost him. 05:06:50  
18 Thank you. 05:06:56  
19 MR. LEE: No problem. 05:06:56  
20 BY MR. MATEEN: 05:06:57  
21 Q. Ms. Harvey, can you list every type of 05:07:18  
22 harm you've suffered from the actions you've alleged 05:07:20  
23 in this lawsuit? 05:07:24  
24 MR. LEE: Hold on. 05:07:25  
25 Objection. Calls for a legal 05:07:26

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1 conclusion -- or to the extent it calls for a legal 05:07:26  
2 conclusion. 05:07:29  
3 Go ahead and answer as best you can. 05:07:30  
4 THE WITNESS: Best I can, well, my 05:07:32  
5 personal information has been collected. It's been 05:07:33  
6 saved. It's been used. It's been many things. And 05:07:36  
7 it was valuable. I -- I do not understand at all 05:07:39  
8 why is there an option to shut it off so it can't be 05:07:43  
9 done and then it happens anyway. To me, that's a 05:07:47  
10 harm. It's very disturbing and very offensive. 05:07:49  
11 BY MR. MATEEN: 05:07:53  
12 Q. Why is it disturbing? 05:07:57  
13 A. Why is it disturbing? Why am I being lied 05:07:59  
14 to? Why am I told that my information's not going 05:08:02  
15 to be saved and that it's not going to be used and 05:08:05  
16 it's not -- nothing's going to happen with that 05:08:07  
17 information because you're in control. I'm not in 05:08:10  
18 control. Sort of makes you feel like you're 05:08:13  
19 floating, and that's not right because I thought I 05:08:18  
20 knew that I was safe and I'm not. 05:08:20  
21 Q. Have you suffered any financial harm? 05:08:36  
22 A. Yes. My data was valuable. 05:08:38  
23 Q. Do you know how much financial harm you 05:08:58  
24 suffered? 05:09:01  
25 A. I can't state. Google knows. 05:09:02

1 Q. How much is your data worth to you? 05:09:05

2 MR. LEE: Objection to form. Vague. 05:09:09

3 THE WITNESS: It's worth a lot. 05:09:13

4 BY MR. MATEEN: 05:09:15

5 Q. Is it worth a thousand dollars? 05:09:20

6 A. I'm not going to comment on that. It's 05:09:21

7 worth a lot. 05:09:24

8 Q. What is "a lot" to you? 05:09:25

9 A. I'm not going to say. I can't say. It's 05:09:27

10 unlimited. There is no price I can put on it 05:09:30

11 because I can't get it back once it's out there. 05:09:34

12 And if I think it's not out there because I'm told 05:09:36

13 it's not going to be, that's not right. Ask Google 05:09:39

14 how much it's worth. 05:09:44

15 Q. Have you ever tried to sell your data to 05:09:46

16 anyone else? 05:09:48

17 A. No. I already -- you asked me that. You 05:09:49

18 asked me that when we first started. I might be 05:09:52

19 wrong, but I thought you asked me that. 05:09:55

20 Q. If Google had not engaged in the alleged 05:10:00

21 conduct, would you be any wealthier? 05:10:03

22 A. Doesn't matter. Doesn't matter. Because 05:10:07

23 I'd have a peace of mind. That data was important 05:10:10

24 to me or I would have told them, "Yeah, take it. 05:10:14

25 Sure. It's fine." No, I said, "No." "No" means 05:10:18

1 no. 05:10:21

2 Q. Do you not have peace of mind? 05:10:27

3 A. For knowing where it went? No. That's 05:10:30

4 not right. They made me a promise, and they broke 05:10:32

5 that promise. It should have never even been 05:10:36

6 touched. They should have turned their heads the 05:10:40

7 other way. And if somebody else sent it to them, 05:10:42

8 they should have rejected it because they already 05:10:45

9 had an agreement with me. Don't make the agreement 05:10:47

10 if you're not going to keep it. 05:10:52

11 Q. Has this lack of peace of mind affected 05:10:55

12 your life in any way? 05:10:57

13 A. Yeah, it has. It has. Because that 05:11:05

14 information's out there and I didn't want it there. 05:11:09

15 Q. Can you describe how it's affected your 05:11:13

16 life? 05:11:15

17 A. Well, makes you sort of untrusting when 05:11:19

18 somebody tells you they're gonna do something and 05:11:19

19 you trust them and they do the exact opposite, 05:11:21

20 doesn't it? 05:11:24

21 Q. Earlier today you testified that you felt 05:11:45

22 physically sick after finding out about the 05:11:48

23 unauthorized transactions way back in 2014, right? 05:11:52

24 A. Yes, but that's been resolved. 05:11:57

25 Q. Have you felt a similar sickness after 05:11:59

1 finding out what you've alleged in this lawsuit? 05:12:03

2 A. It's sort of a little bit worse because 05:12:08

3 Google lied to me, and I trusted they were going to 05:12:10

4 do what they told me they were going to do, and they 05:12:14

5 did not. 05:12:18

6 Q. Can you tell me how you felt physically 05:12:20

7 sick after Google lied to you? 05:12:22

8 MR. LEE: I'm sorry. Can you repeat that? 05:12:27

9 MR. MATEEN: Yes. 05:12:29

10 BY MR. MATEEN: 05:12:29

11 Q. Can you tell me how you have felt 05:12:30

12 physically sick after Google lied to you? 05:12:32

13 MR. LEE: Objection. Form. 05:12:36

14 THE WITNESS: What do you mean? I -- I 05:12:40

15 don't even understand that. 05:12:41

16 BY MR. MATEEN: 05:12:42

17 Q. I can rephrase. 05:12:43

18 Have you had any symptoms -- 05:12:44

19 A. Symptoms -- 05:12:45

20 Q. -- as a result of Google's lying? 05:12:45

21 A. It make you question everybody. Because 05:12:47

22 I've got a contract sitting right here that says 05:12:50

23 it's not going to be done and it was done. So how 05:12:53

24 do I trust another business if they tell me, "We're 05:12:56

25 not going to do it," and they do it behind my back, 05:12:59

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1 which is what Google did. Sort of makes you not 05:13:01  
2 trust anybody. And that's not right. 05:13:10  
3 Q. So, Ms. Harvey, just a little bit ago, I 05:13:25  
4 mentioned that you said that you felt physically 05:13:28  
5 sick after finding out about the unauthorized 05:13:31  
6 transactions in 2014, and you mentioned that you 05:13:34  
7 maybe feel even more so now. And I'm just trying to 05:13:37  
8 get an idea of that physical sickness and any 05:13:43  
9 symptoms you might have had. 05:13:47  
10 So have you had any physical symptoms as a 05:13:49  
11 result of Google's lies? 05:13:52  
12 A. Physical? No. It makes me sick thinking 05:13:54  
13 that somebody lied to me and took my information and 05:13:58  
14 used it for their own personal gain and never told 05:14:03  
15 me. 05:14:06  
16 Why even have the button? Does it mean 05:14:07  
17 it's off? Does it mean it's on? It says you can 05:14:10  
18 protect yourself and you're in control. I'm not in 05:14:14  
19 control. 05:14:17  
20 It's being taken anyway, then, why would 05:14:18  
21 you even have a button that doesn't work? 05:14:21  
22 Q. Ms. Harvey, do you mean figuratively sick 05:14:27  
23 or actually sick? 05:14:31  
24 A. In '13, I literally threw up. Now I feel 05:14:32  
25 nauseous. Makes me sick to think that I've been 05:14:37



1	lied to all these years.	05:14:40
2	Q. And, Ms. Harvey, I'm not trying to ask the	05:14:45
3	same question again. I'm not trying to argue here.	05:14:47
4	But when you say you feel nauseous, do you	05:14:49
5	mean you feel physically nauseous or figuratively	05:14:51
6	nauseous?	05:14:55
7	A. Physically. It makes me sick.	05:14:56
8	Q. Have you sought medical help to address	05:15:11
9	this?	05:15:13
10	A. I've talked to behavioral health, and	05:15:15
11	they've helped me through a lot of it but not about	05:15:17
12	my personal information being floating around. So I	05:15:22
13	don't know when that shoe's going to drop.	05:15:27
14	MR. LEE: I want -- I understand that	05:15:29
15	there's sensitivity around, you know, these types of	05:15:30
16	health-related questions. Mr. Mateen means no	05:15:33
17	disrespect. He's -- he's asking about specific to	05:15:37
18	the claims made in this case.	05:15:39
19	THE WITNESS: No.	05:15:42
20	MR. LEE: Has that required you to seek	05:15:42
21	any medical treatment?	05:15:44
22	So just try to keep it -- you know, he's	05:15:45
23	not trying to embarrass you or anything. Just try	05:15:46
24	to answer that specific question.	05:15:50
25	THE WITNESS: No. Since this happened,	05:15:51